

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:18-CV-00440-MOC-DSC**

**WESLEY E. DAYS and PASHEENA DAYS,)
)
 Plaintiffs,)
)
 vs.)
)
**BAYVIEW LOAN SERVICING, LLC, et al.,)
)
 Defendants.)
)
_____****

THIS MATTER comes before the Court on two outstanding motions that were filed by the pro se Plaintiffs. See Doc. No. 62. Plaintiffs seek additional time to serve defendants Linear Mortgage, LLC, and Madison Management Services, LLC, pursuant to Federal Rule of Civil Procedure 4(m). Plaintiffs also seek to file a supplemental complaint alleging new causes of action against Madison Management based on recent wrongful debt collection “harassment or abuse.” Doc. No. 62 at 6. As explained below, Plaintiffs’ motions shall be held in abeyance.

Plaintiffs commenced this lawsuit in August 10, 2018 by filing their complaint. See Doc. No. 1 at 2–3. At that time, Plaintiffs did not name either Linear Mortgage or Madison Management as parties to this lawsuit. Nor did they even mention those defendants. See id. Subsequently, this case devolved into what the Court has described as “a procedural mess.” Doc. No. 44 at 1. From August 2018 to September 2019, Plaintiffs attempted to file a slew of amendments to their complaint on at least five occasions. See Doc. Nos. 11, 27, 34, 40, 46. On September 16, 2019—the fifth attempted amendment—Plaintiffs first asserted claims against Linear Mortgage and Madison Management. See Doc. Nos. 46 at 32–35. Even so, Plaintiffs did not serve Linear Mortgage nor Madison Management at that time.

On March 3, 2020, Plaintiffs finally filed their motion requesting additional time to serve Linear Mortgage and Madison Management. See Doc. No. 62 at 1. Plaintiffs noted that they failed to serve those defendants within ninety days as required by Federal Rule of Civil Procedure 4. Nevertheless, they asked the Court to extend the deadline under Rule 4(m). Because Plaintiffs are proceeding pro se, the Court issued an Order explaining that, even where a plaintiff fails to provide good cause for failing to timely serve a defendant, the Court can extend the time for service in its discretion. See Doc. No. 66 (quoting Henderson v. United States, 517 U.S. 654, 662 (1996)). The Court identified several non-exhaustive discretionary factors that it would consider, then ordered Plaintiffs to file a response discussing relevant factors for their extension request. See id.

On May 4, 2020, Plaintiffs responded to the Court's Order. See Doc. No. 67. Based upon the reasons provided in their response, the current COVID-19 pandemic, and Plaintiffs' pro se status, the Court is inclined to grant their motion to extend and provide leave to supplement the complaint. Even so, neither Linear Mortgage nor Madison Management have been provided with an opportunity to respond whether an extension is warranted. Therefore, the Court will reserve its ruling on this issue until Linear Mortgage and Madison Management are served. At that time, those defendants may file a motion to dismiss for insufficient service of process if they so choose.

Plaintiffs are advised that the Court will not allow them to continually circumvent procedural rules and plead ignorance by virtue of their pro se status. Likewise, the Court will not tolerate efforts by Plaintiffs to delay resolving this case. See Doc. No. 62 (Plaintiffs opining that this "litigation is certainly going to be delayed" in light of their new claims). Plaintiffs should take this matter seriously and act in good faith to resolve this case—not file cryptic pleadings suggesting harm to others involved. See Doc. No. 62 at 8–9 (Plaintiffs declaring they "are well-armed daily and sincerely want to avoid any circumstances where someone is mistakenly seriously harmed or

worse for mysteriously approaching them to later determine it was unlawful debt collection activities" (emphasis in original)); see also id. (noting that "Plaintiffs are NOT RELEASING ANYONE OF ANY CLAIMS" (emphasis in original)). Put simply, this matter will be resolved, and future attempts by Plaintiffs to delay conclusion will be rebuffed.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiffs' Motion for Leave to File Supplemental Claims Against Madison Management and Motion for Additional Time to Serve Madison Management and Linear Mortgage, Doc. No. 62, are held in **ABEYANCE**, pending service and an opportunity for response by those defendants.

Signed: May 28, 2020



Max O. Cogburn Jr.
United States District Judge